THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 26643 OF 2006

Dated 22nd January, 2007

Between:

V.Sridhar and others

… Petitioner

And

Andhra Pradesh State Council for Higher Education, represented by its Secretary, Masabtank, Hyderabad and others.

…Respondents.

ORAL ORDER:

The petitioners, three in number, who have taken admission in M.C.A course in 5th respondent – an unaided private engineering college, filed this writ petition for a writ of mandamus declaring the action of the respondents in not approving their admission in the said course as illegal and arbitrary.

Fifth respondent is a private unaided engineering college imparting Engineering and MCA courses as permitted by the All India Council for Technical Education. So far as the course of M.C.A. in the said college is concerned, the intake capacity of seats is fixed at 60. The admissions to the said course are governed by the rules framed under Sections 3 and 15 of the Andhra Pradesh Educational Institutions (Regulation of Admissions and Prohibition of Capitation Fee) Act, 1983 in G.O.Ms.No.59, Higher Education (EC1) Department, dated 26.5.2006. As per the said rules, the Convener can fill up 80% of the intake capacity and the remaining 20% of the seats can be filled by the management of the college. In this case, out of 60 seats, though the Convener had to fill up 48 seats, but he had allotted only 46 students and did not fill two more seats under his quota. With regard to vacant seats of Convener quota, the Convener has issued notification for institutional spot admissions, which was published on 20.9.2006, stating that few seats are still left unfilled in MBA/MCA courses in some colleges after the conclusion of ICET-2006 admissions and the interested candidates who are qualified in ICET-2006 examination may approach the Principal of the concerned college to seek admission. It is further stated that a detailed notification would be issued by the

Principals of the concerned colleges in due course. Pursuant to the said notification, the petitioners contacted the Principal of the 5th respondent-college and took admissions within the notified date.

In the counter affidavit filed on behalf of the Convener, the main ground taken for not approving the admissions is that the respondent No.5 – college has not issued any paper notification to fill up the seats before making institutional spot admissions. The other objection is that there were only two vacant seats available in the convener quota and it is not made clear how the third seat was also filled up.

In the reply affidavit filed by the petitioners, it is categorically stated that from the allotment made by the convener, one of the candidates did not report within the time notified by the college, as a result of which, another seat fell vacant and the same is also filled up by spot admission.

Rule 6 of the Andhra Pradesh Regulation of Admissions into MBA/MCA Professional Courses through Common Entrance Test Rules, 2006 issued in G.O.Ms.No.59, dated 26.5.2006 prescribes the procedure for admissions. So far as convener quota is concerned, before making admissions, the convener has to notify the schedule for admissions, venue, timings and all other necessary details in at least three leading newspapers one each in Telugu, Urdu and English. So far as the left over seats of convener quota are concerned, as per sub-rule 11 of Rule 6, they shall be handed-over to the institutions concerned for being filled by them as per sub-rule (12) after notification on merit basis. Though in normal course, the left over vacancies in convener quota are also to be notified, but in this case, there is a notification issued by the convener himself on 20.9.2006, wherein, it is categorically stated that the interested candidates who are qualified in ICET-2006 examination may approach the Principal of the concerned college to seek admission.

As much as the said seats have to be notified, the convener ought to have simply directed to issue notification and fill up the left over seats. But, when he has stated in his notification that the interested candidates may approach the Principal, the petitioners herein responded to the said notification and approached the Principal for admissions. Even with regard to paper publication, though such a requirement is expressly provided in sub-rule (3) of Rule 6 while making admission by the convener, but such express words are lacking in sub-rule (12) while filling up the vacant seats by the convener. So far as two seats are concerned, it is not in dispute that they are unfilled vacant seats in convener quota. However, in so far as third seat is concerned, it is explained in the reply affidavit that out of allotted candidates by the convener, one candidate did not join within the time-frame and as such, the said seat was filled up in the institutional spot admissions by the management. In any event, as the petitioner-students took admissions as per the notification issued by the convener himself and they were admitted within the notified time i.e. before 30.9.2006, there appears no valid reason for not approving their admissions. Even if there is any lapse in not expressly inviting by separate notification on the part of the college, but the petitioners should not suffer for no fault of theirs.

In the above premise, I direct the respondents to approve the admissions of the petitioners and allow them to write examinations and prosecute their courses.

Subject to above directions, the writ petition is disposed of. No costs.

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22.1.2007

R.SUBHASH REDDY, J.

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